25 SEP 1967

The Honorable L. Mendel Rivers
Chairman, Committee on Armed Services
House of Representatives
Washington, D. C. 20515

My dear Mr. Chairman:

I am deeply concerned over the impact of the provisions of S. 1035 upon the Central Intelligence Agency and, for that matter, on the departments and agencies of the intelligence community.

A bill similar to S. 1035 was introduced by Senator Ervin late in the 89th Congress and applied to all employees of the Government. As introduced in the 90th Congress, S. 1035 contained a complete exemption for the FBI only. The bill was amended in Committee to permit an officer of CIA or NSA to request an employee or applicant to take a polygraph test, or to take a psychological test, designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters, or to provide a personal financial statement, on the basis of a personal finding by the Directors in each individual case that the test or information is required to protect the national security. A floor amendment permits a designee of the Directors to make the required personal finding. A final floor amendment removed the full exemption for the FBI and granted it the same partial exemption provided for NSA and CIA.

Let me state to begin with that my colleagues and I in CIA are as keenly interested as any member of the Congress in the need to preserve the Constitutional rights and freedoms of all our citizens. Most of us originally joined the Agency and continue to work for it not only because we believe in those basic democratic freedoms but because we know them to be threatened by external and aggressive forces. The national security which

we have sworn to defend is not to us a mindless abstraction or xenophobic slogan. Rather it is because our country's borders define a rule of law that permits a Bill of Rights to flourish that we believe our nation's security is worth defending. The men I know who have undertaken difficult and often dangerous assignments abroad have done so in the mature conviction that they were helping to preserve the democratic rights of our people.

If all the nations of the earth were peaceful democracies and if there existed reliable international guarantees against aggression and subversion, I would not have to write this letter nor would this country need a CIA. Much as we look forward to such a safe and peaceful world, we have to accept the hard fact that it does not yet exist. In the world of reality in which we have no choice but to live, the survival of our country as a free and democratic state depends upon our ability to protect the security of our defensive plans and dispositions. It also depends on our ability to predict and anticipate the new forms of military and political aggression that an indefatigable opponent may invent. In this struggle that has been forced upon us, nothing is more important than the integrity, the high morale, and the competence of the men and women who work for us.

After some twenty years of experience, we in the CIA are, I think, well aware of the nature of the espionage effort directed against this country. The Soviet KGB, the intelligence services of the Eastern European satellites, of Cuba, and of Communist China are engaged in a continuing endeavor to discover and exploit any human frailty among those who have access to that sensitive information which these unfriendly intelligence services do not know. If a man is in deep financial trouble, a tempting bribe is offered. If a man has a past record of homosexual activity, that vulnerability is exploited by ruthless blackmail. If a man has a relative whose safety or welfare is within their power to threaten, the threat is made. I do not mean to over-dramatize but to suggest that employment in the field of intelligence is subject to special risks and pressures to which the average Federal employee is not subjected.

It is my conviction that the Agency would be derelict if we did not recognize this as a special situation and adopt special procedures. The protection of the vast amount of highly sensitive information so vital to our national security can be no better than the security, integrity, and practices of any employee having access to such sensitive information. Accordingly, we must ensure to the best of our abilities that employees selected to perform duties involving the national security are suitable in all respects. We must of necessity know a great deal more about those whom we select than would be necessary in a nonsensitive activity, and we must also know a great deal

more about our employees throughout their period of service. In the Central Intelligence Agency we feel we have developed a system which gives reasonable protection to the national interest and at the same time, through its professional management, ensures the well being and rights of the employees serving our national interests. We believe that this type of program is necessary and we expect a high sense of self-discipline from our employees. While this concept may not be entirely to the liking of some applicants and employees, I am confident that most employees accept it as necessary and proper in carrying out our mission. We have a corps of highly qualified, well-trained, professional officers, and their dedication to the intelligence program is demonstrated by their accomplishments and one of the lowest attrition rates in Government attests to their job satisfaction.

The following will illustrate some of the problems which this proposed legislation would create for us:

Section 1 (b), while commendably protecting an employee from compulsory attendance at meetings and lectures on matters unrelated to his official duties, would, for example, make it unlawful for any department or agency to "take notice" of the attendance of one of its employees at a meeting held by a subversive group or organization. I question whether this is really the Senate's intent and yet this is clearly one of the effects of Section 1 (b).

Section 1 (d), in making it unlawful to require an employee to make any report of his activities or undertakings not related to the performance of official duties, is similar in its effect to Section 1 (b). It poses the question whether the Agency, having learned or discovered that one of its employees is in regular and unreported contact with an intelligence official of a foreign government, would be violating the law in asking the employee for an explanation of this relationship, particularly in the case in which the employee's official duties do not relate to matters involving that particular foreign government. Further, this Section is in conflict with a long-established policy that employees of the Agency must obtain prior approval in making public speeches or writing for publication. These and additional restrictions are established to prevent the inadvertent disclosure of sensitive intelligence through employee activities or undertakings not related to official duties. Here again the question arises whether the Agency would be violating the law in exerting control over these activities.

Section 1 (e) deals with psychological testing. S. 1035, as amended, authorizes the Directors of the FBI, NSA and CIA, or their designees, on the basis of a personal finding in each individual case, to use such tests for the purpose of inquiring into the sensitive areas of religious beliefs and practices, personal family relationships, and sexual attitudes, but it denies the use of such testing to all other departments and agencies without regard to the fact that employees of these departments and agencies may be regular recipients of highly classified information.

Section 1 (f) establishes the same prohibition on the use of the polygraph test as applies to psychological testing, and grants the same partial exemption to the FBI, NSA and CIA. Again, the use of the polygraph test in the proscribed areas is denied to all but these three agencies, irrespective of the fact that highly sensitive positions may be involved.

Section 1 (k) poses a problem for the Agency in that it would appear to require the presence of counsel in behalf of an employee as soon as and at the very moment that a supervisor were to ask the employee the reasons for some suspected dereliction of duty ranging from a serious security violation to even coming to work late. This provision goes to the very heart of the continuous process of review of intelligence operations and activities to determine their effectiveness, the quality of information derived, and professionalism in which the activities were conducted. Out of such interviews or post-mortems there naturally evolves the review of individual employee performance which, if unsatisfactory, can readily result in disciplinary action. A great many extremely sensitive intelligence operations and activities are involved in this process and the presence of private counsel in behalf of an employee would raise most serious questions as to the appropriate control and protection of the intelligence information involved. I cannot believe that these kinds of restraint on our managerial and intelligence operational program are the intent of the Senate and yet this does seem to be the effect of this Section as presently written. Obviously, I have no desire that an employee should be deprived of the right of counsel when appropriate, but the wording of this Section would make it "unlawful" to ask the simple preliminary questions which are necessary to establish whether or not there is some failure in performance or dereliction of duty unless provisions were also made at the same time for the presence of counsel if the employee so requested.

Section 1 (i) compounds the serious dilemmas which several of the provisions of the bill raise for the Agency by making it unlawful for me to take actions to protect the security and integrity of the Agency even though the Central Intelligence Agency Act of 1949 places that responsibility upon me. The implications of this Section for the orderly administration of the business of the Agency are most troublesome.

Section 4 of the bill could create very considerable mischief. This is the section which permits any employee or applicant who alleges that an officer of the Executive Branch has violated or threatened to violate provisions of the Act to bring civil action in the district courts. Communist or other subversives acting on their own or on instructions from foreign agents, would have the authority, under this Section of the bill, to file a civil action if, for example, in the course of a recruitment interview, simple and non-sensitive questions relating to the background of the individual were asked and were considered incompatible with the other provisions of the bill. Although it may be argued that the Agency could, in a trial of the issue in open court, prove that it had acted fully in accordance with the provisions of the bill, this might well require in some of these cases a kind of exposition on the public record, of the personnel and activities of the Agency, which would be totally inconsistent with the security of our personnel and activities. I am reminded here of the fact that Congress has charged me with the protection of sources and methods of intelligence, a serious responsibility.

Section 5. The comments made with respect to Section 4 above are only to a slightly lesser extent equally applicable to Section 5.

Section 6. This Section grants a partial exemption to the FBI, NSA and CIA with regard to financial disclosure and the use of psychological and polygraph testing by requiring each of the Directors, or their designees, to make a personal finding with regard to each individual case that such testing or financial disclosure is required to protect the national security. The amendment permitting a designee of the Director to make the personal finding shifts the serious burden previously imposed upon the Director alone. If the Agency is to comply with the spirit of the law, it will still be necessary that a personal finding be made in each individual case that such testing or financial disclosure is required to protect the national security. Inquiry by these means into the proscribed areas, which are the key areas of vulnerability, will not be possible as a matter of general regulation. The Section, as amended, also resolves foreseeable problems created by Section 1 (i) and 1 (j) concerning disclosure of property, income or other assets or liabilities.

With respect to Section 7, I can assure you that we have an elaborate system of internal grievance procedures including the maintenance of the Office of Inspector General who reports directly to me and whose door is always open to each and every one of our employees.

Section 1 (a) is quite compatible with current Agency practices and Sections 1 (c), 1 (g), and 1 (h) do not affect current Agency practices. Sections 2 and 3 of the bill do not relate to the Agency.

In conclusion I well remember the great concern expressed by the Congress in the late 1940's over loose security practices and procedures in Government and the strong reaction of the Congress which resulted in more stringent security regulations and standards of employee suitability. These measures have through the years guided our efforts to ensure that we are able to frustrate the aggressive nature of operations directed against our national security by hostile foreign intelligence services.

In my judgment this bill, if enacted, would be a most serious obstacle to the effective protection of intelligence sources and methods. It would seriously weaken our effort to prevent penetration by a hostile intelligence service, to ensure that our employees are suitable in all respects for employment in this sensitive Agency, and in general make it much more difficult for the Director of Central Intelligence to discharge his responsibilities under existing law. I earnestly request your consideration of the serious issues suggested by this proposed legislation.

Respectfully,

/s/ Richard Helms

Richard Helms
Director

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